

**RESOLUTION OF THE BOARD OF RETIREMENT OF
VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
REGARDING PENSIONABILITY OF FLEX CREDIT PENDING AB 826**

WHEREAS, the Ventura County Employees' Retirement Association ("VCERA") and the VCERA Board of Retirement (the "Board") are governed by the County Employees Retirement Law of 1937 (Government Code sections 31450, *et seq.*) ("CERL") and the Public Employees' Pension Reform Act of 2013 (Government Code sections 7522, *et seq.*) ("PEPRA").

WHEREAS, the Board is required by Government Code sections 31460, 31461, and 31542 to determine "compensation" and "compensation earnable" for VCERA members who entered membership in VCERA before January 1, 2013, or who entered membership in another California public retirement system before January 1, 2013 and established reciprocity with VCERA thereafter ("Legacy Members").

WHEREAS, on April 19, 2021, legislation was introduced in the California Assembly (Assembly Bill 826) ("AB 826"), which, if enacted, would permit Flex Credit to be included in compensation earnable of VCERA Legacy Members, so long as it met the criteria set forth in AB 826. One of those criteria is that the remuneration "is made available to any person in the same grade or class of positions," as defined therein.

WHEREAS, beginning on January 1, 2020, a new form of Flex Credit was provided for some groups that offered tiers of "employee only," "employee plus one," and "employee plus two or more," depending on the number of dependents eligible for coverage and that the employee elects to cover, and the only tier that was then available to any person in the same grade or class of positions was "employee only," or in some instances "employee plus one" if an "employee only" tier is not provided.

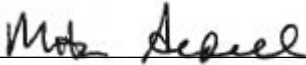
WHEREAS, the lowest amount of Flex Credit provided to each grade or class of positions (by virtue of positions in a bargaining unit or unrepresented group) is the highest benefit that should be included in "compensation earnable," because that is the only Flex Credit benefit available to all persons in the same grade or class of positions. It is thus not subject to manipulation through election by individual members and is payable to all members regardless of their number of dependents. A single employee shall not be considered a grade or class of positions.

WHEREAS, this Resolution is intended to comply with the requirements of the Internal Revenue Code of 1986, and the regulations issued thereunder, as applicable.

NOW, THEREFORE BE IT RESOLVED, that the VCERA Board declares the following:

1. The foregoing Recitals are incorporated herein by reference.
2. VCERA shall include Flex Credit in compensation earnable at the lowest amount that is provided to persons in an individual member's bargaining unit or unrepresented group during the final compensation period, subject to potential further adjustment should AB 826 not be enacted during the 2021 session of the California legislature.

3. Any member contributions that were overpaid to VCERA after January 1, 2020 on Flex Credit in excess of the amount determined to be compensation earnable by this Resolution, shall be returned to members with interest as soon as administratively feasible.



Mike Sedell, Chair of the Board